UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION (CLEVELAND)

CITIMORTGAGE, INC.,	)	CASE NO. 1:05CV1238
Plaintiff,	)	
-v-	)	JUDGE ____________
LEONARD S. PRIEBE, ET AL.,	)	MAGISTRATE JUDGE ____________
Defendants.	)	**NOTICE OF REMOVAL**

Counterclaim Defendant CitiMortgage, Inc. respectfully submits that:

1. Counterclaim Defendant CitiMortgage Inc. ("CMI") previously named Leonard S. Priebe and Joanne M. Priebe (collectively, "Counterclaim Plaintiffs") in a Complaint filed with the Court of Common Pleas of Cuyahoga County, Ohio, bearing Case No. CV-04-534146. A copy of the original Complaint (the "Complaint") filed by CMI is attached hereto as Exhibit "1".

2. On May 5, 2005, CMI voluntarily dismissed its original Complaint against Counterclaim Defendants, with prejudice, leaving the Amended Counterclaim and Huntington National Bank's Cross-claim as the only claims pending in this action.[1] A copy of the Notice of Dismissal with Prejudice is attached hereto as Exhibit "2".

3. On July 15, 2004, Counterclaim Defendants filed their original Counterclaim, which did not assert a cause of action under any federal statute. A copy of the original Counterclaim is attached hereto as Exhibit "3". On April 15, 2005, CMI was served with a

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[1] On July 14, 2004, Defendant Huntington National Bank ("Huntington") filed a Cross-Claim against CMI, alleging that it held a mortgage lien on the property that was the subject of CMI's original Complaint. Presumably, with the dismissal of CMI's Complaint, that Cross-Claim is moot.

copy of the Amended Counterclaim which, as set forth below, asserts a cause of action under federal law. A copy of the Amended Counterclaim is attached hereto as Exhibit "4"

4. This Notice is being filed within thirty days from CMI's receipt of the Amended Counterclaim and is therefore timely pursuant to 28 U.S.C. § 1446(b).

5. Copies of all process, pleadings and orders served upon CMI are attached hereto and filed with this Notice, as provided by 28 U.S.C. § 1446(a).

FEDERAL QUESTION JURISDICTION EXISTS

6. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1441 and 1446. Defendants' Amended Counterclaim seeks damages for CMI's alleged violation of the federal Real Estate Settlement Practices Act ("RESPA"), specifically 12 U.S.C. § 2605, in connection with CMI's servicing of Counterclaim Defendants' mortgage loan. As such, the Amended Counterclaim raises federal allegations on its face. *City of Chicago v. International College of Surgeons*, 522 U.S. 156, 163-64 (1997); *American Fed'n of Television & Radio Artists v. WJBK-TV*, 164 F.3d 1004, 1007-08 (6th Cir. 1999).

SUPPLEMENTAL JURISDICTION OVER STATE LAW CLAIMS

7. The Court may exercise supplemental jurisdiction over Defendants' state law claims pursuant to 28 U.S.C. § 1367 because federal question jurisdiction exists.

8. Pursuant to 28 U.S.C. §§ 1441 and 1446, removal of the referenced state court action to this Court is appropriate.

9. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served on Counterclaim Defendants and filed with the Cuyahoga County Court of Common Pleas.

10. Plaintiff reserves the right to amend or supplement this Notice of Removal.

WHEREFORE, Counterclaim Defendant CitiMortgage, Inc. removes this action from the Cuyahoga County Court of Common Pleas to this Court.

Respectfully submitted,

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Counsel for Counterclaim Defendant CitiMortgage, Inc.

CERTIFICATE OF SERVICE

A copy of the foregoing *Notice of Filing of Removal to the United States District Court for the Northern District of Ohio, Eastern Division*, has been served this 11th day May, 2005, by first class U.S. mail, postage prepaid, upon the following:

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